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Arnold Schwarzenegger
Governor

MEMORANDUM

TO: Mr. Tom Howard
Acting Executive Director
State Water Resources Control Board
PO Box 100
Sacramento, CA 95812-0100

Harold

FROM: Harold J. Singer
Executive Officer
LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD

DATE: January 12, 2007

SUBJECT: BASIN PLAN AMENDMENTS FOR LAHONTAN REGION 6 WASTE DISCHARGE PROHIBITION CLARIFICATION AND NPDES COMPLIANCE SCHEDULE PROVISION

This memorandum is to propose two revisions in the above-cited Basin Plan amendments (Resolution No. R6T-2006-0015) that should be incorporated prior to consideration by the State Water Board. I request the following actions:

- 1) Remove the NPDES compliance schedule portion of the Basin Plan amendment from the State Water Board consideration. Since adoption of these amendments we have learned that the U.S. Environmental Protection Agency has denied approval for similar amendments from another regional water board.
- 2) Resolution R6T-2006-0015 authorizes the Executive Officer to make minor non-substantive changes to the amendment for clarity or consistency. Two minor changes are needed for clarity and consistency to the discharge prohibition language. The correction is needed to account for the link to the removal of consideration of the NPDES compliance schedule provision.

Attached is the Basin Plan amendment language with the revisions indicated. The portion of the amendment I would like removed from consideration is shown in shaded text. The correction to the Waste Discharge Prohibition clarification is shown in bold underline.

Thank you for your attention to this matter. Please contact me at (530) 542-5412 if you have any questions.

Attachment: Revised Basin Plan Amendment, January 12, 2007

cc: Mr. David Coupe, Office of Chief Counsel, State Water Resources Control Board
Mr. Ken Harris, Division of Water Quality, State Water Resources Control Board

Revised January 11, 2007 - All text in shaded format is to be removed from consideration by State Board. Text shown in bold represents EO correction to language originally approved under Resolution No. R6T-2006-0015.

BASIN PLAN AMENDMENTS FOR WASTE DISCHARGE PROHIBITION CLARIFICATION AND NPDES COMPLIANCE SCHEDULE PROVISION

Waste Discharge Prohibitions

Insert the following immediately before the heading “Regionwide Prohibitions” in section 4.1 (p. 4.1-1):

Waste discharge prohibitions in this chapter and Chapter 5 (Water Quality Control Standards for the Lake Tahoe Basin) do not apply to discharges of stormwater when wastes in the discharge are controlled through the application of management practices or other means and the discharge does not cause a violation of water quality objectives. For existing discharges, waste discharge requirements, including, **if authorized**, NPDES permits, may contain a time schedule for the application of control measures and compliance with water quality objectives. In general, the Regional Board expects that control measures will be implemented in an iterative manner as needed to meet applicable receiving water quality objectives.

Insert the following immediately before the heading “Regionwide Prohibitions” in section 5.2 (p. 5.2-1):

Waste discharge prohibitions in this chapter do not apply to discharges of stormwater when wastes in the discharge are controlled through the application of management practices or other means and the discharge does not cause a violation of water quality objectives. For existing discharges, waste discharge requirements, including, **if authorized**, NPDES permits, may contain a time schedule for the application of control measures and compliance with water quality objectives. In general, the Regional Board expects that control measures will be implemented in an iterative manner as needed to meet applicable receiving water quality objectives.

Compliance Schedules

Chapter 4

Include the following revisions to the text of “Compliance Schedules” starting on page 4-3 of Chapter 4 – Implementation.

Compliance Schedules. The Porter-Cologne Act (CA Water Code § 13242[b]) requires a Basin Plan's program of implementation for achieving water quality objectives to include a "time schedule for the actions to be taken." Because of the lack of ambient water quality monitoring data for most of the water bodies of the Lahontan Region (see Chapter 7), it is not possible to state whether or not these waters are in achievement of all water quality objectives, or to set compliance schedules for achievement. The Regional Board periodically reviews available information on attainment of objectives and support of beneficial uses as part of the Water Quality Assessment (ongoing), Section 305(b) reporting (every two years), and Triennial Review (every three years) processes. These reviews may result in Basin Plan amendments and/or the issuance of new or revised discharge permits that ~~which~~ will include specific compliance schedules for particular dischargers or for all discharges affecting particular water bodies. The Regional Board is also required to prioritize impaired water bodies listed as "Water Quality Limited" under Section 303(d) of the Clean Water Act for the development of "Total Maximum Daily Loads" (TMDLs) of pollutants to be used in setting wasteload allocations for dischargers, in order to ensure attainment of standards.

Where the Regional Board determines it is infeasible to achieve immediate compliance with water quality objectives adopted by the Regional Board or State Board, with water quality criteria adopted by the USEPA, or with an effluent limitation based on these objectives or criteria, the Regional Board may establish in NPDES permits a schedule of compliance in accordance with federal NPDES regulations (40 CFR §122.47). Compliance schedules may not be included that would violate federal Clean Water Act statutory requirements that are applicable to municipal POTWs and industrial point source discharges.

The schedule of compliance shall include a time schedule for completing specific actions that demonstrate reasonable progress toward the attainment of the objectives or criteria and shall contain a final compliance date, based on the shortest practical time (determined by the Regional Board) required to achieve compliance. Compliance schedules for California Toxic Rule (CTR) objectives shall comply with the provisions of the State Implementation Plan (SIP) [40 C.F.R. section 131.38(e)(6) and in the CTR-SIP, Section 2.1].

Schedules of compliance may also be included in NPDES storm water permits where an iterative approach is necessary to develop appropriate strategies and controls to meet water quality objectives.

The 1975 Basin Plans included recommendations that specific studies be carried out by specific dates on needs for community wastewater collection and treatment facilities in certain areas of the Lahontan Region. These plans also recommended that some communities construct specific facilities by given dates. Most of these schedules were not met. Because expected year to year changes in availability of

and priorities for funding will ensure that long term schedules are unrealistic, this Basin Plan does not include such recommendations. Priorities are set on a short-term basis for studies through the State Board's use of the Clean Water Strategy ranking system in various grant programs, and for facilities construction through the State Board Division of Clean Water Programs needs assessment process for loans and grants. Once funding is allocated, completion schedules are set through the contract process.

Some of the water quality control programs for the Lahontan Region do have specific compliance deadlines, which are discussed later in this Basin Plan. For example, the control measures for the Lake Tahoe Basin which are discussed in Chapter 5 are to be implemented over a 20-year period (through 2007) to ensure attainment of objectives. Some of the waste discharge prohibitions discussed later in this Chapter also include specific compliance dates.

The Regional Board maintains discharge permits (WDRs and NPDES permits) for point sources, each of which includes its own compliance schedule. Waste discharge permits for construction projects generally require implementation of Best Management Practices during and immediately after construction; long-term maintenance of permanent BMPs is expected. Regional Board enforcement orders for specific problems also include compliance schedules.